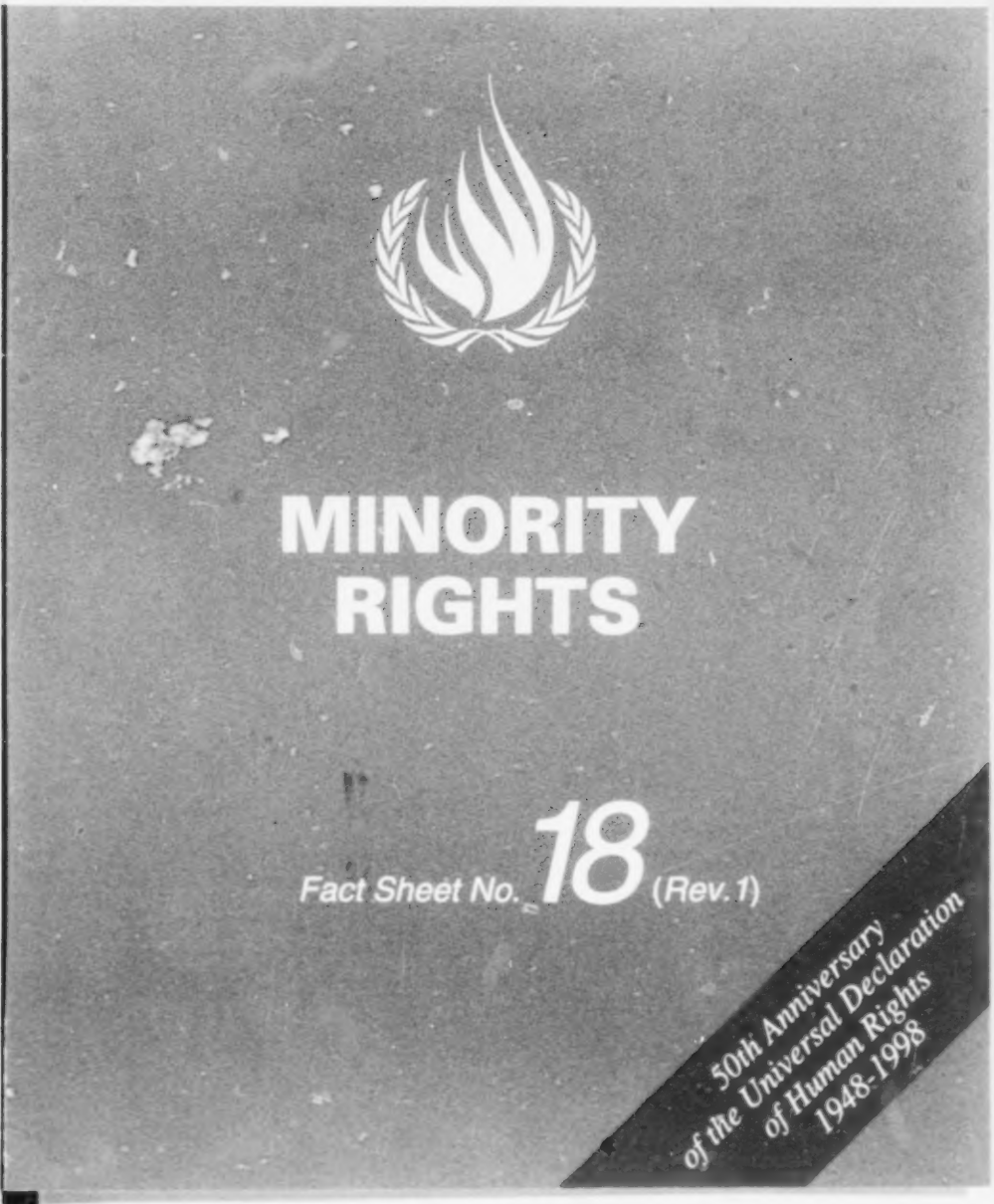
Human Rights



MINORITY RIGHTS

Fact Sheet No. 18 (Rev. 1)

50th Anniversary of the Universal Declaration of Human Rights 1948-1998

Introduction

"... The promotion and protection of the rights of person belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live."

(PREAMBLE OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES)[1]

Almost all States have one or more minority groups within their national territories, characterized by their own ethnic, linguistic or religious identity which differs from that of the majority population. Harmonious relations among minorities and between minorities and majorities and respect for each group's identity are a great asset to the multi-ethnic and multicultural diversity of our global society. Meeting the aspirations of national, ethnic, religious and linguistic groups and ensuring the rights of persons belonging to minorities acknowledges the dignity and equality of all individuals, furthers participatory development, and thus contributes to the lessening of tensions among groups and individuals. These factors are a major determinant of stability and peace.

The protection of minorities has not, until recently, attracted the same level of attention as that accorded other rights which the United Nations considered as having a greater urgency. In recent years, however, there has been a heightened interest in issues affecting minorities as ethnic, racial and religious tensions have escalated, threatening the economic, social and political fabric of States, as well as their territorial integrity.

In 1947, the system for the protection of minorities, as groups, established under the League of Nations and considered by the United

[1] Adopted by the General Assembly on 18 December 1992 (General Assembly resolution 47/135).

Nations to have outlived its political expediency, was replaced by the Charter of the United Nations and the Universal Declaration of Human Rights. These instruments were based on the protection of individual human rights and freedoms and the principles of non-discrimination and equality. The view was that if the non-discrimination provisions were effectively implemented, special provisions for the rights of minorities would not be necessary. It was very soon evident, however, that further measures were needed in order to better protect persons belonging to minorities from discrimination and to promote their identity. To this end, special rights for minorities were elaborated and measures adopted to supplement the non-discrimination provisions in international human rights instruments.

This Fact Sheet summarizes the procedures and activities, principally of the United Nations, in the field of minority protection. It provides an overview of the non-discrimination clauses and the special rights contained in international human rights instruments and describes the mechanisms that have been established to monitor compliance with minority rights standards. The Fact Sheet provides an analysis of the complaints procedures available in cases where violations have occurred, the early warning mechanisms which have been established to prevent conflict, and the role of non-governmental organizations in protecting and promoting the rights of persons belonging to minorities. Finally, it points to some of the minority issues which may prove particularly pertinent in the years to come.

Provisions for the promotion and protection of the rights of persons belonging to minorities

Prohibition of discrimination

Discrimination which affects minorities in a negative manner—politically, socially, culturally or economically—persists and is a major source of tension in many parts of the world. Discrimination has been interpreted to "imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, . . ., language, religion, . . ., national or social origin, . . ., birth or other status, and which has the purpose or effect of nullifying or impairing the recogni-

tion, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".[2] The prevention of discrimination has been defined as the "... prevention of any action which denies to individuals or groups of people equality of treatment which they may wish".[3]

Discrimination has been prohibited in a number of international instruments that deal with most, if not all, situations in which minority groups and their individual members may be denied equality of treatment. Discrimination is prohibited on the grounds of, *inter alia*, race, language, religion, national or social origin, and birth or other status. Important safeguards from which individual members of minorities stand to benefit include recognition as a person before the law, equality before the courts, equality before the law, and equal protection of the law, in addition to the important rights of freedom of religion, expression and association.

Non-discrimination provisions are contained in the United Nations Charter of 1945 (Arts. 1 and 55), the Universal Declaration of Human Rights of 1948 (art. 2) and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 1966 (art. 2). Such provisions also appear in a number of specialized international instruments, including: ILO Convention concerning Discrimination in Respect of Employment and Occupation No. 111 of 1958 (art. 1); International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (art. 1); UNESCO Convention against Discrimination in Education of 1960 (art. 1); UNESCO Declaration on Race and Racial Prejudice of 1978 (arts. 1, 2 and 3); Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief of 1981 (art. 2); and the Convention on the Rights of the Child of 1989 (art. 2).

Non-discrimination clauses are also included in all of the basic regional human rights documents, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter and the Framework Convention on National Minorities (Council of Europe), the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE (Organization for Security and Cooperation in Europe); the American Convention on Human Rights (Organization of American States); and

[2] General Comment 18 of the Human Rights Committee on non-discrimination under the Covenant on Civil and Political Rights, United Nations document HRI/GEN/1/Rev.2 of 29 March 1996.

[3] United Nations document E/CN.4/52, section V.

the African Charter on Human and Peoples' Rights (Organization of African Unity).

Special rights for minorities

What are special rights?

Special rights are not privileges but they are granted to make it possible for minorities to preserve their identity, characteristics and traditions. Special rights are just as important in achieving equality of treatment as non-discrimination. Only when minorities are able to use their own languages, benefit from services they have themselves organized, as well as take part in the political and economic life of States can they begin to achieve the status which majorities take for granted. Differences in the treatment of such groups, or individuals belonging to them, are justified if they are exercised to promote effective equality and the welfare of the community as a whole.[4] This form of affirmative action may have to be sustained over a prolonged period in order to enable minority groups to benefit from society on an equal footing with the majority.

Several international human rights instruments refer to national, ethnic, racial or religious groups and some include special rights for persons belonging to minorities. These include: the Convention on the Prevention and Punishment of the Crime of Genocide (art. II); the Convention on the Elimination of All Forms of Racial Discrimination (arts. 2 and 4); the International Covenant on Economic, Social and Cultural Rights (art. 13); the International Covenant on Civil and Political Rights (art. 27); the Convention on the Rights of the Child (art. 30); the UNESCO Convention against Discrimination in Education (art. 5); the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; and the UNESCO Declaration on Race and Racial Prejudice (art. 5).

Regional instruments which contain special rights for minorities include the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages (Council of Europe); and the Document of the Copenhagen Meeting of

[4] United Nations document E/CN.4/52, section V.

the Conference on the Human Dimension of the OSCE (Organization for Security and Cooperation in Europe).

Article 27 of the International Covenant on Civil and Political Rights

The most widely-accepted legally-binding provision on minorities is article 27 of the International Covenant on Civil and Political Rights, which states:

> "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

Article 27 of the Covenant grants persons belonging to minorities the right to national, ethnic, religious or linguistic identity, or a combination thereof, and to preserve the characteristics which they wish to maintain and develop. Although article 27 refers to the rights of minorities in those States in which they exist, its applicability is not subject to official recognition of a minority by a State.

Article 27 does not call for special measures to be adopted by States, but States that have ratified the Covenant are obliged to ensure that all individuals under their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected.[5]

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities[6]

The only United Nations instrument which addresses the special rights of minorities in a separate United Nations document is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.[7] The text of the Declaration, while

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[5] General Comment 18 (37) of the Human Rights Committee. For the full text see United Nations document HRI/GEN/1 of 4 September 1992.

[6] For the full text of the Declaration, see annex I.

[7] Adopted by the General Assembly on 18 December 1992 (General Assembly resolution 47/135).

ensuring a balance between the rights of persons belonging to minorities to maintain and develop their own identity and characteristics and the corresponding obligations of States, ultimately safeguards the territorial integrity and political independence of the nation as a whole. The principles contained in the Declaration apply to persons belonging to minorities in addition to the universally recognized human rights guaranteed in other international instruments.[8]

The Declaration grants to persons belonging to minorities:

—protection, by States, of their existence and their national or ethnic, cultural, religious and linguistic identity (art. 1);

—the right to enjoy their own culture, to profess and practise their own religion and to use their own language in private and in public (art. 2.1);

—the right to participate in cultural, religious, social, economic and public life (art. 2.2);

—the right to participate in decisions which affect them on the national and regional levels (art. 2.3);

—the right to establish and maintain their own associations (art. 2.4);

—the right to establish and maintain peaceful contacts with other members of their group and with persons belonging to other minorities, both within their own country and across state borders (art. 2.5); and

—the freedom to exercise their rights, individually as well as in community with other members of their group, without discrimination (art. 3).

States are to protect and promote the rights of persons belonging to minorities by taking measures:

—to create favourable conditions to enable them to express their characteristics and to develop their culture, language, religion, traditions and customs (art. 4.2);

—to allow them adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (art. 4.3);

[8] See article 8 of the Declaration.

—to encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and ensure that members of such minorities have adequate opportunities to gain knowledge of the society as a whole (art. 4.4);

—to allow their participation in economic progress and development (art. 4.5);

—to consider legitimate interests of minorities in developing national policies and programmes, as well as in planning and implementing programmes of cooperation and assistance (art. 5);

—to cooperate with other States on questions relating to minorities, including the exchange of information and experiences, in order to promote mutual understanding and confidence (art. 6);

—to promote respect for the rights set forth in the Declaration (art. 7);

—to fulfil the obligations and commitments States have assumed under international treaties and agreements to which they are parties.

Finally, the specialized agencies and other organizations of the United Nations system are encouraged to contribute to the realization of the rights set forth in the Declaration (art. 9).[9]

The General Assembly, on the occasion of the adoption of the Declaration, called on the international community to direct its attention to making the standards effective through international and domestic mechanisms. This included, in particular, the dissemination of information on the Declaration and the promotion of understanding thereof; appropriate mechanisms for its effective promotion and consideration of the Declaration within the mandates of the relevant organs and bodies of the United Nations.[10]

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[9] For an interpretation of the Declaration, see in particular: Patrick Thornberry, in *The UN Minority Rights Declaration*, edited by Alan Phillips and Allan Rosas, Abo Akademi University Institute, 1993, pp. 11-71; Joseph Yacoub, in *Les Minorités, quelle protection?*, Paris, 1995, pp. 335-368; and Isse Omanga Bokatola, "La Déclaration des Nations Unies sur les droits des personnes appartenant à des minorités nationales ou ethniques, religieuses et linguistiques" in *Revue Générale de Droit International Public*.

[10] See General Assembly resolution 47/135, paragraphs 2-6.

The implementation of special rights and the promotion of further measures for the protection of minorities

Reporting procedure

In order to implement the rights of persons belonging to minorities as enunciated in the International Conventions, committees have been established to monitor the progress made by States parties in fulfilling their obligations, in particular, in bringing national laws as well as administrative and legal practice into line with their provisions. The Committees which are of particular relevance to the implementation of minority rights are the Committee on Human Rights (which oversees implementation of the International Covenant on Civil and Political Rights); the Committee on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights); the Committee on the Elimination of Racial Discrimination (Convention on the Elimination of All Forms of Racial Discrimination); and the Committee on the Rights of the Child (Convention on the Rights of the Child).

States parties undertake to submit periodic reports to the respective Committees outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of, *inter alia*, the minority-specific rights contained in the relevant instruments. When a State report comes before the respective Committee for examination, a representative of the country concerned may introduce it, answer questions from the expert members of the Committee, and comment on the observations made.

The Committees provide States with a detailed set of reporting guidelines specifying the type of information required for the Committees to monitor a State's compliance with its obligations.[11] For reporting under article 27 of the International Covenant on Civil and Political Rights, for example, information contained in the report must be provided about minorities in a State, their respective numbers as compared to the majority and the concrete measures adopted by the reporting

[11] For further details see *Manual on Human Rights Reporting*, United Nations Centre for Human Rights and United Nations Institute for Training and Research, United Nations, New York, 1991.

State to preserve minorities' ethnic, religious, cultural and linguistic identity as well as other measures to provide minorities with equal economic and political opportunities. Particular reference should be made to their representation in central and local government bodies.[12]

On the basis of the information they receive, the Committees can insist on a genuine dialogue with the reporting State. Once consideration of a State report has been concluded, the Committees issue "concluding observations" which may state that violations of the rights of minorities have taken place, urge States parties to desist from any further infringements of the rights in question, or call on the respective Governments to adopt measures to improve the situation.

High Commissioner for Human Rights

The High Commissioner for Human Rights— the post was established in 1993 by the General Assembly—has been entrusted with the task, among others, to promote and protect the rights of persons belonging to minorities.[13] More specifically, the High Commissioner has been entrusted, by the General Assembly, to promote implementation of the principles contained in the Declaration on the rights of persons belonging to minorities and to continue to engage in a dialogue with Governments concerned for that purpose.[14] To this end, a comprehensive three-pronged programme has been elaborated to: promote and implement the principles contained in the Declaration on the rights of persons belonging to minorities; cooperate with other organs and bodies of the United Nations, including the international human rights community, and programmes of technical assistance and advisory services; and engage in dialogue with Governments and other parties concerned with minority issues. These three activities are interrelated and have preventive functions as their common denominator.

During visits to countries and in ongoing dialogue with Governments, the High Commissioner encourages implementation of the principles contained in the Declaration and discusses problems and possible solutions concerning situations involving minorities. The High Commissioner further contributes to strengthening minority protection by providing guidance in respect of, and support to, the activities of the

[12] Ibid., p. 119.

[13] See General Assembly resolution 48/141.

[14] See General Assembly resolution 49/192.

other bodies and organs of the United Nations. This includes, among others, the follow-up of minority-related resolutions of legislative bodies and the recommendations of the treaty bodies, of the Working Group on Minorities, and of the special rapporteurs.

Working Group on Minorities

In 1995, a five-member Working Group on Minorities of the Sub-Commission for the Prevention of Discrimination and the Protection of Minorities was established, initially for a three-year period, in order to promote the rights as set out in the Declaration on persons belonging to minorities, and in particular to:

—review the promotion and practical realization of the Declaration;

—examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments; and

—recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.[15]

The Working Group is a forum for dialogue which has two interdependent objectives/goals:

Firstly, the Working Group provides the framework within which Governments, minorities and scholars meet to discuss issues of concern and seek solutions to problems identified. This leads to greater awareness of the differing perspectives on minority issues and consequently, also to increased understanding and mutual tolerance among minorities and between minorities and Governments. Secondly, it acts as a mechanism for arriving at peaceful and constructive solutions to problems involving minorities and for the elucidation and elaboration of the principles contained in the Declaration.

During its sessions, the Working Group focused on the meaning and application of the principles contained in the Declaration, the different measures adopted to enable persons belonging to minorities to enjoy their own culture, profess and practise their own religion and use

[15] See Commission on Human Rights resolution 1995/24.

their own language; the role of multicultural and intercultural education in fostering tolerance and understanding between various groups in society; the contribution of regional and other mechanisms, as well as national institutions and non-governmental organizations, to minority protection; conciliation and early warning mechanisms to prevent the escalation of tensions and conflicts; and the definition of a minority.[16]

The Working Group is rapidly becoming the major focal point for the activities of the United Nations in the field of minority protection. It has recommended, *inter alia*, that: a database be established on good practices adopted in protecting the rights of minorities; information on national, regional and international recourse mechanisms be collected; the treaty bodies and special rapporteurs give due regard to minority issues in carrying out their mandates; the High Commissioner for Human Rights develop and implement procedures for conflict prevention; inter-agency cooperation on minorities be further promoted; and seminars be held on a regular basis on subjects of particular concern to minorities such as intercultural education, the role of the media, the right to profess and practise their own religion and the right to enjoy their own culture.

Participation in the sessions of the Working Group is open to Government representatives, intergovernmental organizations, non-governmental organizations involved in minority protection irrespective of whether they have consultative status with the Economic and Social Council (ECOSOC) and to scholars versed in the subject.

Investigations, technical assistance and advisory services

The independent experts appointed by the United Nations to investigate and report on the human rights situation in specific countries, as well as thematic issues, often address concerns pertaining to the rights of persons belonging to minorities or confronted with violations of minority rights. The conclusions and recommendations of these special rapporteurs are published and debated, bringing the issues they address to international attention and serving either as guidance for the Governments concerned or as a means of pressure to ease or eliminate

[16] See the reports of the Working Group at its first, second and third sessions contained in documents E/CN.4/Sub.2/1996/2, E/CN.4/Sub.2/1996/28, E/CN.4/Sub.2/1997/18.

the problems which have been identified. Of particular relevance are the reports on countries where minority rights are not respected, often resulting in ethnic and religious tensions and inter-communal violence and on thematic issues such as religious intolerance and racial discrimination.[17]

The advisory services and technical assistance offered by the Office of the High Commissioner constitute a comprehensive programme for building national and regional human rights infrastructures funded through the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights. Assistance is provided only in agreement with the Governments concerned, on the basis of requests received from them. In the area of minority protection, Governments may request qualified expertise on minority issues, including the prevention of disputes, to assist in existing or potential situations involving minorities. Assistance has been provided in drafting laws to protect and promote the identity and characteristics of minorities, the organization of training seminars on minority rights and workshops on peaceful conflict resolution techniques, the strengthening of confidence-building measures for different groups in society, and the provision of fellowships and scholarships. Further assistance is being provided in the field of constitutional and electoral assistance, human rights education and curriculum development, police training, the establishment and strengthening of national institutions, the administration of justice, the training of the military, and support to non-governmental organizations.[18]

Studies

The protection of minorities has been the subject of a number of studies commissioned by the United Nations since the 1960s which were undertaken principally by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. These studies pertain to: the legal validity of undertakings relating to the protection of minorities placed under the guarantee of the League of Nations;[19] the

[17] Such reports are submitted to the General Assembly, the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. They are available from the Document Section of the United Nations.

[18] For further details see *Fact Sheet No. 3 (Rev.1)* on advisory services and technical cooperation in the field of human rights.

[19] United Nations document E/CN.4/367 of 7 April 1950.

definition and classification of minorities;[20] the problem of the juridical treatment of minorities;[21] and ways and means for facilitating the resolution of situations involving racial, national, religious and linguistic minorities.[22]

Since the adoption of the Declaration on the rights of persons belonging to minorities, the Secretary-General has prepared a number of reports for the General Assembly and the Commission on Human Rights, describing the measures undertaken by States, international organizations, organs and bodies of the United Nations, specialized agencies, and non-governmental organizations to give effect to the principles contained in the Declaration and, more generally, in protecting and promoting the rights of persons belonging to minorities.

Defining a minority

What is a minority? Who defines a minority? Who are the beneficiaries of minority rights? These questions and the possible responses thereto have been the subject of a number of studies by experts of the Sub-Commission[23] and lengthy debates in many forums in which minority protection has been addressed. No definite answers have been found and no satisfactory universal definition of the term "minority" has proved acceptable. The absence of a definition has, however, neither precluded standard-setting or promotional activities nor hindered the establishment and work of the Working Group on Minorities.

The difficulty in arriving at an acceptable definition lies in the variety of situations in which minorities exist. Some live together in well-defined areas, separated from the dominant part of the population, while others are scattered throughout the national community. Some minorities base a strong sense of collective identity on a well-

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[20] Lake Success, New York, 1950, by the Secretary-General; "Proposals concerning a definition of the term minority", by Mr. Jules Deschênes, E/CN.4/Sub.2/1985/31 of 14 May 1985; "Definition of minorities" by Mr. Stanislav Chernichenko, E/CN.4/Sub.2/AC.5/1996/WP.1 and E/CN.4/Sub.2/AC.5/1997/WP.1; "Classification of minorities and differentiation in minority rights", by Mr. Asbjørn Eide, E/CN.4/Sub.2/AC.5/1996/WP.2.

[21] "Rights of persons belonging to ethnic, religious and linguistic minorities", by Francesco Capotorti (United Nations *Study Series No. 5*).

[22] "Possible ways and means to facilitate the peaceful and constructive solution of problems involving racial minorities", by Mr. Asbjørn Eide (E/CN.4/Sub.2/1993/34 and Add.1-4).

[23] See the studies of Mr. Jules Deschênes, Mr. Asbjørn Eide and Mr. Stanislav Chernichenko, all members of the Sub-Commission at the time the studies were drafted.

remembered or recorded history, others retain only a fragmented notion of their common heritage. In certain cases, minorities enjoy—or have known—a considerable degree of autonomy. In others, there is no past history of autonomy or self-government. Some minority groups may require greater protection than others, because they have resided for a longer period of time in a country, or they have a stronger will to maintain and develop their own characteristics.

Despite the difficulty in arriving at a universally acceptable definition, various characteristics of minorities have been identified, which, taken together, cover most minority situations. The most commonly used description of a minority in a given State can be summed up as a non-dominant group of individuals who share certain national, ethnic, religious or linguistic characteristics which are different from those of the majority population. In addition, it has been argued that the use of self-definition which has been identified as "a will on the part of the members of the groups in question to preserve their own characteristics" and to be accepted as part of that group by the other members, combined with certain specific objective requirements, could provide a viable option.[24]

Some groups of individuals may find themselves in situations similar to those of minorities. These groups include migrant workers, refugees, stateless persons and other non-nationals, who do not necessarily share certain ethnic, religious or linguistic characteristics common to persons belonging to minorities. These particular groups are, however, protected against discrimination by the general provisions of international law, and have additional rights guaranteed in, for example, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;[25] the Convention relating to the Status of Stateless Persons; the Convention relating to the Status of Refugees; and the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live.

Complaints procedures

Complaints against the violation of human rights, including minority-specific rights, can be brought to the attention of the United

[24] See "Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities", *Study Series No. 5*, p. 96.

[25] As of August 1997, this Convention has not entered into force due to the lack of ratifications.

Nations. They may be submitted by an individual, a group or a State under a number of procedures, namely:[26]

—The confidential "1503 Procedure", which allows a working group of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and ultimately the Economic and Social Council, to receive communications pertaining to situations that constitute a "consistent pattern of gross violations" of human rights, including those of particular importance to minorities. Individuals or groups who claim to be victims of violations, or a person or group of people with direct, reliable knowledge of such violations (including NGOs) may submit communications.

—The International Covenant on Civil and Political Rights which provides for State to State complaints under article 41, if the State party has recognized the competence of the Committee on Human Rights to receive and consider such complaints. In this case, the Committee may consider communications to the effect that a State party claims that another State party is not respecting the rights set out in the Covenant, including article 27.

—The Optional Protocol to the International Covenant on Civil and Political Rights which provides for individual communications alleging violations of the Covenant to be submitted to the Human Rights Committee on violations perpetrated by a State party of any of the articles contained therein, including article 27.

—The Convention on the Elimination of Racial Discrimination also permits communications from individuals or groups who claim to be victims of a violation of their rights as set out in the Convention, and for State to State complaints under article 11 of the Convention.[27]

Further relevant complaints procedures are available under the Convention against Torture, and those established by the specialized agencies, in particular by the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization.

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[26] For further information about how to submit communications, see *Fact Sheet No. 7* entitled "Communication Procedures", pp. 4-8.

[27] So far, no State party has taken advantage of the procedure, which provides—unless the matter has been settled in another way—for the appointment of a conciliation commission.

Early warning mechanisms

Early warning mechanisms have been set up in order to prevent, *inter alia*, racial, ethnic or religious tensions from escalating into conflicts. Two types of provisions for early warning mechanisms established by the United Nations deserve to be mentioned in the context of minority protection:[28]

The High Commissioner for Human Rights has been entrusted with the specific task of preventing the continuation of human rights violations throughout the world. To this end, the High Commissioner plays a mediating role in situations which may escalate into conflicts by acting at the diplomatic level to obtain substantive results with individual Governments and by encouraging dialogue among the parties concerned.

The Committee on the Elimination of Racial Discrimination has established an early warning mechanism drawing the attention of the members of the Committee to situations which have reached alarming levels of racial discrimination. The Committee has adopted both early warning measures and urgent procedures to prevent, as well as to respond, more effectively to violations of the Convention. Criteria for early warning measures could, for example, include the following situations: the lack of an adequate legislative basis for defining and prohibiting all forms of racial discrimination; inadequate implementation of enforcement mechanisms; the presence of a pattern of escalating racial hatred and violence or appeals to racial intolerance by persons, groups or organizations; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities.

Role of non-governmental organizations

International non-governmental organizations (NGOs) play an important role in promoting and protecting the rights of persons

[28] At regional level, the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe (OSCE) has been entrusted with the specific mandate to provide for early warning of potential conflict.

belonging to minorities. They are—either directly or through their national affiliates—close to situations of tension and possible sources of conflict. They are frequently involved in mediation, and they are able to sensitize international as well as national public opinion when the rights of minorities are neglected or violated.

NGOs can have a significant impact in the field of minority protection through research, the publishing of reports and by serving as channels and platforms for minority groups on the one hand and, on the other, by providing timely and factual information to governmental and intergovernmental bodies on situations involving minorities.

How can NGOs contribute to the work of the United Nations?

Non-governmental organizations can attend most meetings at the United Nations, including the sessions of the treaty bodies, the working groups, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Attendance at, and participation in, the meetings are generally subject to having been awarded consultative status with the Economic and Social Council (ECOSOC). However, the Working Group on Minorities, for example, is open to the participation of all NGOs involved in minority protection, irrespective of whether they have consultative status.

NGOs have considerable potential to contribute in the following areas:

—NGOs can encourage the adoption of measures at national level to effectively implement the provisions of the relevant international instruments: in particular, the special rights for minorities and the principles contained in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

—NGOs can provide information on infringements of the rights of persons belonging to minorities by bringing these to the attention of the various United Nations human rights mechanisms: in particular, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

—NGOs can contribute to the implementation, at local, national and regional levels, of the minority-specific resolutions adopted by the various organs and bodies of the United Nations, in particular the Commission on Human Rights and the Sub-Commission and the implementation of the relevant recommendations of the treaty bodies, the special rapporteurs and the Working Group on Minorities;

—NGOs can support the United Nations Working Group on Minorities by: actively participating in its deliberations; providing accurate, objective and constructive information about situations involving minorities, conciliation mechanisms and ways in which minority protection can be strengthened; and contributing to the dialogue between minorities and Governments;

—NGOs can contribute to the reports of the States parties to the relevant international instruments by providing accurate and objective information for inclusion in the reports. Furthermore, NGOs can play an important role during the examination of State party reports by bringing to light information about serious situations warranting the attention of the relevant treaty bodies; they can also contribute to the implementation of the decisions and recommendations of the Committees.

The way ahead

The body of international law which can be applied to minorities has shown a welcome development in the past two decades. The field of non-discrimination benefits from the adequate coverage provided by international instruments and special rights have received greater attention in recent years with the adoption of the Declaration and the establishment of the Working Group on Minorities. Further evidence of the importance of minority rights is provided in reports by Governments to international organizations, studies of thematic or country rapporteurs, the work of NGOs, and academic research.

There is also evidence that much remains to be done. Many minorities are subject to serious and persistent violations of their basic rights. Long experience has shown that neither oppression—applied in defiance of international law—nor neglect of minority problems provides a sound basis for relations between groups. Enforced or involuntary assimilation has sometimes been attempted, but it has often failed.

Although minority problems may change over time, there is no reason to believe that the groups concerned, or their claims, will disappear, unless positive action is taken.

Unresolved situations and conflicts involving minorities indicate that further measures to address minority issues need to be adopted and new avenues of conflict resolution need to be sought. The effective implementation of the non-discrimination provisions and special rights, as well as of the resolutions and recommendations of the various organs and bodies of the United Nations, can contribute to meeting the aspirations of minorities and to the peaceful accommodation of different groups within a State. Tolerance, mutual understanding and pluralism should be nurtured and fostered through human rights education, confidence-building measures, and dialogue. Persons belonging to minorities, rather than being considered adversaries, should be allowed to contribute to the multicultural enrichment of our societies and be involved as partners in development. This is an essential condition for greater stability and peace within and across State borders.

ANNEX

Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Adopted by General Assembly resolution 47/135 of 18 December 1992

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Taking into account the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.

2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.

2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their

human rights and fundamental freedoms without any discrimination and in full equality before the law.

2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.

4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.

5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, *inter alia*, exchanging information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaraton, within their respective fields of competence.

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United Nations
New York, NY 10017
United States of America

Printed at United Nations, Geneva
GE.98-15255–February 1998–11,305

ISSN 1014-5567

Human Rights